

**ETHICS COMMISSION  
CITY AND COUNTY OF HONOLULU**



**Advisory Opinion No. 51**

This is in response to your letter of January 5, 1976, requesting the Ethics Commission to determine whether or not Employee X violated any of the provisions of the standards of conduct in the Rev. Ordinances of Honolulu 1969 and the Revised Charter.

Our answer is no.

Our investigation has revealed that Employee X has a real estate salesman's license. His position with the City is Supervising Construction Inspector with the Engineering Division of the Board of Water Supply. He is in charge of inspection of construction of Board of Water Supply projects.

The pertinent provisions which would be applicable in this situation are RCH Sections 10-102.3 and 10-104, which read as follows:

Section 10-102. Conflicts of Interest — No elected or appointed officer or employee shall:

....

3. Engage in any business transaction or activity or have a financial interest, direct or indirect, which is incompatible with the proper discharge of his official duties or which may tend to impair his independence of judgment in the performance of his official duties.

Section 10-104. Fair and Equal Treatment — No elected or appointed officer or employee shall use his official position to secure or grant special consideration, treatment, advantage, privilege or exemption to himself or any person beyond that which is available to every other person.

When the primary duties and responsibilities of Employee X are analyzed in relation to said Section 10-104, we are of the opinion that Employee X's activities as a real estate salesman are not in conflict with the cited provision because his present duties and responsibilities do not provide him the opportunity to obtain information which is not available to a non-City employee.

Neither is his activity as a real estate salesman under the circumstances incompatible with his

official duties nor does it impair his independence of judgment in the performance of his duties because any financial gain thereunder is not due to his position with the Board of Water Supply.

However, if he takes advantage of his position as an employee of the Board of Water Supply to seek and obtain information relative to the capital improvement program and budget which generally indicate where the future development of real estate may occur because of the capital improvements to be made by the Board of Water Supply and uses such information to his advantage which is not available to others, he would be violating said Section 10-104.

Hence, so long as Employee X does not attempt to obtain any information relative to the capital improvement program or budget of the Board of Water Supply in connection with any of his real estate activities, we conclude that there is no apparent conflict of interest.

Dated: Honolulu, Hawai'i, March 16, 1976.

ETHICS COMMISSION  
Nathaniel Felzer, Chairman